

93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; Pub. L. 102-484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994); and E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994).

PART 771—[AMENDED]

3. Part 771 is amended by adding a new § 771.27 to read as follows:

§ 771.27 General license G-BETA; Exports of beta test software.

(a) *Scope.* A General License designated G-BETA is established subject to the provisions of this section authorizing exports and reexports to eligible countries of beta test software intended for distribution to the general public.

(b) *Eligible countries.* The countries that are eligible to receive exports and reexports under this General License are all countries except those listed in Country Groups S and Z, Iran, Iraq, Sudan, and Syria.

(c) *Eligible software.* All software that is controlled by the Commerce Control List (see Supplement No. 1 to Part 799.1 of this subchapter), and under Commerce licensing jurisdiction, is eligible for export and reexport under General License G-BETA, subject to the restrictions set forth in this section.

(d) *Conditions for use.* Any beta test software program may be exported or reexported to eligible countries if all of the conditions under this section are met:

(1) The software producer intends to market the software to the general public after completion of the beta testing, as described in the General Software Note found in Supplement No. 2 to Part 799.1 of this subchapter;

(2) The software producer provides the software to the testing consignee free-of-charge or at a price that does not exceed the cost of reproduction and distribution; and

(3) The software is designed for installation by the end-user without further substantial support from the supplier.

(e) *Importer statement.* Prior to shipping any eligible software under General License G-BETA, the exporter or reexporter must obtain the following statement from the testing consignee, which may be included in a contract, non-disclosure agreement, or other document that identifies the importer,

the software to be exported, the country of destination, and the testing consignee:

We certify that this beta test software will only be used for beta testing purposes, and will not be rented, leased, sold, sublicensed, assigned, or otherwise transferred. Further, we certify that we will not transfer or export any product, process, or service that is the direct product of the beta test software.

(f) *Use limitations.* Only testing consignees that provide the importer statement required by paragraph (e) of this section may execute any software received under General License G-BETA.

(g) *Return or disposal of software.* All beta test software exported under General License G-BETA must be destroyed abroad or returned to the exporter within 30 days of the end of the beta test period as defined by the software producer or, if the software producer does not define a test period, within 30 days of completion of the consignee's role in the test. Among other methods, this requirement may be satisfied by a software module that will destroy the software and all its copies at or before the end of the beta test period.

PART 779—[AMENDED]

4. Part 779.2 is amended in the last sentence by revising the phrase "exports to Canada^{7,8}" to read "exports to Canada^{7,8}, and exports of beta test software eligible for General License G-BETA."

Dated: April 10, 1995.

Sue E. Eckert,
Assistant Secretary for Export
Administration.

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DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Parts 400, 403, 405 and 449

Form G-405

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Adoption of form amendments.

SUMMARY: The Department of the Treasury ("Department" or "Treasury") is adopting amendments to Form G-405 (Report on Finances and Operations of Government Securities Brokers and Dealers, or the "FOGS Report"), which is the form that registered government securities brokers and dealers are required to file pursuant to §§ 405.2 and

449.5 of the regulations issued under the Government Securities Act of 1986 (the "Government Securities Act" or "GSA"). The amendments revise Schedule I of the FOGS Report filed with the Securities and Exchange Commission ("SEC") to require registered government securities brokers and dealers to disclose their affiliations, if any, with U.S. banks. The Department is adopting the amendments unchanged from their proposed form.

EFFECTIVE DATE: June 12, 1995.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director) or Lee Grandy (Government Securities Specialist) at 202-219-3632. (TDD for hearing impaired: 202-219-3988.)

SUPPLEMENTARY INFORMATION:

Background and Analysis

The Department adopted Form G-405 in the implementing regulations to the GSA issued on July 24, 1987 (52 FR 27910). Sections 405.2 and 449.5¹ of the GSA regulations require that registered government securities brokers and dealers use the form to make the required monthly, quarterly and annual financial reports to the SEC or to their self-regulatory organization in accordance with a plan approved by the SEC. Pursuant to the regulations, registered government securities brokers and dealers are required to file financial reports which include information on their assets, liabilities, liquid capital, total haircuts, and ratio of liquid capital to total haircuts as determined in accordance with § 402.2, among other items, on Form G-405.

To supplement either Part II or IIA of the FOGS Report, registered government securities brokers and dealers are also required to file Schedule I at the end of each calendar year. The purpose of this schedule is to obtain information about the economic and financial characteristics of the reporting government securities broker or dealer.

The Department published the amendments to Form G-405 in proposed form on January 30, 1995,² and the comment period closed on March 1, 1995. Treasury received no comments and these final changes to the form are identical to the proposed changes.

The amendments to Form G-405 add a new item 15 to request information about an affiliation with, or control by, a U.S. bank. Current items 15 through 18 become items 16 through 19, respectively. The new inquiry requires a yes or no response, and if the response

¹ 17 CFR 405.2 and 17 CFR 449.5, respectively.

² 60 FR 5602 (January 30, 1995).

is yes, the respondent must provide the name of the parent or affiliate and the type of institution. The "General Instructions" to Schedule I also are amended to refer to the definition of "bank" in § 3(a)(6) of the Securities Exchange Act of 1934 ("Exchange Act").³

Form G-405 is required to be submitted by registered government securities brokers and dealers to the SEC or to a self-regulatory organization according to an SEC approved plan. Financial institutions that have filed notice as government securities brokers and dealers are not required to file Form G-405.

The disclosure of this additional information would correspond to similar changes made by the SEC to Form X-17A-5, also known as the "FOCUS" Report, in November 1992.⁴ The Treasury shares the SEC's belief that having knowledge of the economic and financial characteristics of brokers and dealers, including organizational affiliations with U.S. banks, is useful for regulatory purposes. This form change will also achieve consistency with the SEC approach and will assure consistent treatment for all government securities brokers and dealers.

The amendments to Form G-405 become effective June 12, 1995. The Department has consulted with the National Association of Securities Dealers ("NASD") regarding the implementation of the form changes. The Department understands that the NASD will distribute the amended Form G-405 to its members that are registered government securities brokers and dealers. Copies of the Form G-405 may also be obtained by contacting the NASD.

List of Subjects in 17 CFR Part 449

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the Preamble, 17 CFR Chapter IV is amended as follows:

³ 15 U.S.C. 78c(a)(6). Under this section, the term "bank" is defined as: (a) a banking institution organized under the laws of the United States; (b) a member bank of the Federal Reserve System; (c) any other banking institution doing business under the laws of any state or the United States, a substantial portion of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by state or federal authority having supervision over banks; and (d) a receiver, conservator, or other liquidating agent of any institution or firm included in the above paragraphs.

⁴ Securities Exchange Act Release No. 31398 (November 4, 1992), 57 FR 53261 (November 9, 1992).

PART 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 449 continues to read as follows:

Authority: 15 U.S.C. 78o-5(a), (b)(1)(B), (b)(4).

2. Schedule I of Form G-405 is amended to add new instruction 15(a), (b) and (c) to the General Instructions, to redesignate Questions 15-18 as Questions 16-19, and add new Question 15 to read as follows:

Note: The text of Form G-405 does not appear in the Code of Federal Regulations.

Form G-405, Report on Finances and Operations of Government Securities Brokers and Dealers, Schedule I:

* * * * *

General Instructions

* * * * *

15(a), (b) & (c)—Report whether respondent directly or indirectly controls, is controlled by, or is under common control with, a U.S. bank. If the answer is "yes," provide the name of the affiliated bank and/or bank holding company, and describe the type of institution. The term "bank" is defined in § 3(a)(6) of the Securities Exchange Act of 1934.

* * * * *

15. (a) Respondent directly or indirectly controls, is controlled by, or is under common control with, a U.S. bank.

(Enter applicable code: 1=Yes 2=No)

(b) Name of parent or affiliate _____

(c) Type of institution _____

* * * * *

§ 400.6 and 405.3 [Amended]

3. For each section indicated in the list above, remove the Office of Management and Budget control number from the parenthetical statement at the end of each section, and add in its place "1535-0089".

§ 403.4 [Amended]

4. Add at the end of § 403.4 the following parenthetical:

§ 403.4 Customer protection—reserves and custody of securities.

(Approved by the Office of Management and Budget under control number 1535-0089)

Dated: April 3, 1995.

Frank N. Newman,

Deputy Secretary.

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17 CFR Part 449

Form G-FIN-4

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Adoption of form amendments.

SUMMARY: The Department of the Treasury ("Department" or "Treasury") is adopting amendments to Form G-FIN-4, which is the form that associated persons of financial institutions that are government securities brokers and dealers are required to file with such financial institutions, pursuant to sections 15C(a), (b)(1)(B) and (b)(4) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78o-5(a), (b)(1)(B) and (b)(4)) and sections 400.4 and 449.3 of the regulations issued under the Government Securities Act of 1986 ("GSA"). The amendments update the disciplinary background provisions of the form to reflect amendments to the federal securities laws, and provide the financial institutions of the associated persons and the appropriate regulatory authorities for the financial institutions with more useful information. The Department is adopting the amendments unchanged from their proposed form.

EFFECTIVE DATE: June 12, 1995.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director), or Lee Grandy (Government Securities Specialist) at 202-219-3632. (TDD for hearing impaired: 202-219-3988.)

SUPPLEMENTARY INFORMATION:

I. Background and Analysis

The Department adopted Form G-FIN-4 (Disclosure Form for Person Associated with a Financial Institution Government Securities Broker or Dealer) in the implementing regulations for the GSA issued on July 24, 1987 (52 FR 27910). Sections 400.4 and 449.3¹ of the GSA regulations require the form to be used by associated persons of financial institutions that are government securities brokers and dealers to provide the financial institutions and the appropriate regulatory agencies with certain information concerning employment, residence and statutory disqualification. Under the GSA regulations, associated persons that have a current Form U-4 (Uniform Application for Securities Industry Registration or Transfer) or Form MSD-4 (Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) on file with their financial institution are not required to file Form

¹ 17 CFR 400.4 and 17 CFR 449.3, respectively.